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SIPCO, LLC

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA**

SIPCO, LLC, a Georgia limited liability company.

Case No. 3:20-cv-03520-WHO
Hon. William H. Orrick

Plaintiff,

JOINT STATUS REPORT

VIGILENT CORPORATION, a California corporation,

Defendant.

1
2 **JOINT STATUS REPORT**
3

4 Plaintiff SIPCO, LLC and Defendant Vigilent Corporation file the following joint status report as
5 required by the Court's Order of January 10, 2022. ECF No. 38.
6

7 SIPCO filed notices of appeals of the PTAB's decisions¹ pertaining to No. 8,964,708 (the "708
8 Patent") on October 13, 2020. The Federal Circuit consolidated the two appeals with case 21-1039 being
9 the lead and 21-1040 being secondary. The docket sheet for the lead appeal is attached hereto as Exhibit A.
10 The parties completed briefing on June 23, 2021. *See* Exhibit A at Docket No. 28. On that same day, the
11 Federal Circuit sought additional briefing regarding the Supreme Court's *Arthrex* decision. *See id.* at Docket
12 No. 29; *see also United States v. Arthrex, Inc.*, 141 S. Ct. 1970, 1976 (2021). At that point, SIPCO requested
13 an *Arthrex* remand so it could petition for Director review. The Federal Circuit granted this remand on
14 August 2, 2021. *See id.* at Docket No. 34.

15 At the PTO, in each of the two IPRs SIPCO filed a request for Director review on September 1, 2021.
16 Mr. Hirshfeld denied review in both cases on October 15, 2021. SIPCO notified the Federal Circuit of the
17 denial on October 28, 2021. *See id.* at Docket No. 35. The Federal Circuit then asked if SIPCO intended to
18 separately challenge the denial of Director review in addition to the underlying PTAB decisions. *See id.* at
19 Docket No. 36. SIPCO elected not to separately challenge the denial of Director review, but it continues to
20 seek reversal of the PTAB's underlying decisions. *See id.* at Docket No. 37.

21 On December 14, 2021, the Federal Circuit designated a third appeal (No. 21-1881) as a companion
22 case to be heard by the same merits panel as the consolidated appeals. *See id.* at Docket No. 40. The third
23 appeal is not as advanced as the consolidated appeals, with the reply brief due on February 10, 2022. Once
24 briefing concludes in the third appeal, the Federal Circuit is likely to schedule hearings in all three appeals
25 for the same date. That scheduling is within the discretion of the Federal Circuit, and the Parties do not
26 know exactly when it will occur.

27 Dated: February 10, 2022
28

¹ *Emerson Elec. Co. v. SIPCO, LLC*, No. IPR2019-00547, Paper 36 (PTAB Aug. 27, 2020) and *Emerson Elec. Co. v. SIPCO, LLC*, IPR2019-00545, Paper 35 (PTAB Aug. 27, 2020).

1 O'Melveny & Myers LLP

2 By: /s/ Melody Drummond Hansen
3 Melody Drummond Hansen

4 Attorneys for Defendant,
5 Vigilent Corporation

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By: /s/ Deepali A. Brahmbhatt
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1 **ATTESTATION PURSUANT TO L.R. 5-1(i)(3)**

2 I hereby attest that all signatories listed, on whose behalf this filing is submitted, concur in this
3 filing's content and have authorized this filing.

4 */s/ Deepali Brahmbhatt*

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